

Committee on Resources

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TESTIMONY OF MARSHALL JONES, DEPUTY DIRECTOR, UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE HOUSE SUBCOMMITTEE ON FISHERIES CONSERVATION, WILDLIFE AND OCEANS, COMMITTEE ON RESOURCES, REGARDING H.R. 1204, TO ESTABLISH A NATIONAL WILDLIFE REFUGE SYSTEM CONCESSIONS POLICY AND H.R. 2408, THE NATIONAL WILDLIFE REFUGE SYSTEM VOLUNTEER ACT

June 26, 2003

Mr. Chairman, thank you for the opportunity to present the Administration's views on H.R. 1204, which establishes a National Wildlife Refuge System (NWRS) concessions policy, and H.R. 2408, the National Wildlife Refuge System Volunteer Act. I am Marshall Jones, Deputy Director of the U.S. Fish and Wildlife Service (Fish and Wildlife Service).

Generally, H.R. 1204 would amend the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee) (Administration Act) to authorize the Secretary of Interior to provide for maintenance and repair of buildings and properties located on lands in the Refuge System. The Administration supports the goals of this legislation; however, we have some concerns with the bill and would like to work with the committee to address these to help improve the management and accountability of the refuge concession program. H.R. 2408 would reauthorize the National Wildlife Refuge System Volunteer and Community Partnership Enhancement Act of 1998. We strongly support reauthorization of this Act.

H.R. 1204 - Concessions in the National Wildlife Refuge System

History and Need for Legislation

A brief review of relevant legislation and background information will help explain the need for this legislation.

Concessions (i.e., secretarially-granted privileges) are defined as businesses operated by private enterprises that provide recreational, educational, and interpretive opportunities for the visiting public. A concession provides a public service and, generally, requires some capital investment by the concessionaire and the Fish and Wildlife Service for facilities and products. The Secretary of the Interior (Secretary) delegated the authority to approve such ventures to the Director of the Fish and Wildlife Service in October 1957. This authority has since been delegated to the Regional Directors.

Since 1935, the Secretary has been authorized to sell or otherwise dispose of surplus products, to grant privileges on units of the NWRS, and to have the receipts be reserved in a separate fund known as the Refuge Revenue Sharing Fund (Fund) (16 U.S.C. 715s). Subsection (b) of 16 U.S.C. 715s stipulates that the Secretary may pay any necessary expenses incurred in connection with the revenue-producing measures set forth in 715s(a). However, public recreation-related concession-generated revenues have not been utilized to offset concession-related refuge administration, capital improvements, and maintenance expenses because of competing priorities for refuge resources. Subsection (c) requires that the balance of the Fund be paid to counties in which lands are reserved from the public domain or acquired in fee and managed by the Fish and Wildlife Service. In fiscal year 2002, the Refuge Revenue Sharing Fund received deposits of \$6.1 million from sales and the disposal of property. Less than \$200,000 was deposited into this account from refuge concession programs.

The Refuge Recreation Act of 1962 (16 U.S.C. Sec. 460k through 460 k-3), as amended, allows for public recreation in fish and wildlife conservation areas as long as it is compatible with conservation purposes, is an incidental or secondary use, and is consistent with other federal operations and primary objectives of the particular area.

Pursuant to the Administration Act, the Secretary is authorized to negotiate and enter into contracts with any person, public agency, or private enterprise for the provision of public accommodations when the Secretary determines such accommodations would not be inconsistent with the primary purpose for which the affected

area was established.

In 1983, the Region 3's Regional Director requested that concessionaires at the Crab Orchard National Wildlife Refuge (NWR) in Marion, Illinois, be allowed to pay for repairs to facilities there in lieu of making concessions payments to the refuge. This request was denied. The Department's Office of the Solicitor had determined that 40 U.S.C. 303c (an exemption to 40 U.S.C. 303b, which requires all payments for leasing of buildings and property to be monetary in nature) applied only to the National Park Service. While a legislative proposal was forwarded to Congress in 1984, it was never enacted.

In 1995, the Office of the Inspector General identified the need to improve the condition of concession facilities, to increase the fees paid to refuges, and to have repairs and improvements made to the facilities (Audit Report No. 95-I-376). As an aside, the Office of the Inspector General has issued numerous reports on the management and administration of National Park Service concessions and Concessionaire Improvement Accounts. The National Park Service has an extensive concession program, and we believe that any legislation to improve the NWRS concession program should consider the recommendations included in these reports on managing concessions.

The Government Accounting Office (GAO) subsequently conducted an audit of government agencies providing concession opportunities. In its 1996 report, the GAO found that competition resulted in a higher rate of return from concession operations and that agencies that were allowed to retain fees received a better rate of return. The average return to the government in agencies retaining fees was 11.1 percent; in contrast, concessions managed by agencies that did not retain fees averaged 2.6 percent.

Most recently, the Refuge Improvement Act of 1997 (16 U.S.C. 668dd) (Improvement Act) established priority uses for the NWRS. Hunting, fishing, wildlife observation, photography, environmental education, and interpretation are the six priority uses that the NWRS must provide, if deemed compatible with the purpose for which the refuge was established.

Finally, the Fish and Wildlife Service supplemented this existing statutory framework in November 2001 by issuing a Director's Order on concession contracts. The purpose of the Order was to establish the scope, policies, authorities, and responsibilities for concession contracts within the NWRS, and to provide guidance for issuing concession agreements under our current legislative mandates and authorities.

The Value of Concessions in the National Wildlife Refuge System

Despite the long history of attention to this issue, the concessions program in the NWRS can be improved.

The Fish and Wildlife Service utilizes concession operations as a valuable management tool by which it can provide recreational and educational services to the visiting public. In some instances, concession operations may be the best means for visitors to view and appreciate wildlife and, thus, to gain a better understanding of the purpose and mission of the NWRS. In general, concessions help the Fish and Wildlife Service achieve its mission. They also help to educate the public about the importance of wildlife habitat preservation and the protection of ecosystems.

Concession operations also help refuge managers enhance visitor experiences. Current concession operations include services such as canoe rentals, guided naturalist tours, ferry operations to remote refuge islands, and fishing guides. All of these operations afford the public the opportunity to experience, "hands on," the many features and advantages of wildlife refuges and, we hope, to come away with a greater appreciation of how tax dollars are being spent.

Despite the many advantages of concession operations, the Fish and Wildlife Service currently has very few operations in place compared to the total number of refuges. Part of the reason for the low numbers is that current law (40 U.S.C. 303b) requires leasing of buildings and properties by concessionaires to be paid for with monetary consideration only. Some refuge managers believe their best efforts to provide a cost-effective means of maintaining refuge facilities are hampered by not allowing non-monetary consideration be paid by concessionaires for such leases. Although the Service can pay for the administration, capital improvement, and maintenance expenses involved with a concession operation (as is allowed under subsection (b) of 16 U.S.C. 715s), other priorities exist, and all must fit within the framework of priorities established by the President's Budget.

We believe that improving the existing concessions program could begin with legislation like H.R. 1204

which, among other things, would allow the Service to accept non-monetary considerations in lieu of concessions payments.

H.R. 1204, Establishing Concessions Policy in the National Wildlife Refuge System

We believe that changes in existing authority could improve refuge concessions management and accountability. The Administration supports the goals of H.R. 1204 and would like to work with the Committee and the bill's sponsors to strengthen and clarify a few provisions.

Specifically, Section 1(a) requires the issuance of regulations to establish a standardized contract for concession activities in the NWRS. We support this change but, because of the variability in the types and terms of such agreements, we would like to ensure that the Fish and Wildlife Service maintains the ability to adapt our contract terms to different situations. We would like to work with the Committee to ensure that we have that flexibility.

This section also authorizes a concessionaire to maintain or repair any improvement on or in such land or water that the concessionaire is authorized to use for such purposes, and treat costs incurred by the person for such maintenance or repair as consideration otherwise required to be paid to the United States for such use. In other words, this legislation would allow a concessionaire to make repairs to concessions facilities on National Wildlife Refuges, with the stipulation that the United States retains title to property maintained or repaired under these provisions.

Finally, this section establishes that concession-related receipts shall be available for expenditure in accordance, without further appropriation, to increase the quality of the visitor experience and enhance the protection of resources. This means that an appropriate share of the concessionaire's gross receipts would be available to the refuge for contract administration, backlogged repair and maintenance projects, interpretation, signage, habitat or facility enhancement, and resource protection and preservation.

Section 2 would amend the Administration Act to require the Secretary to provide a report to the House Resources Committee and the Senate Environment and Public Works Committee detailing concessions activities within the NWRS.

As noted above, we do have some technical concerns with the current language, and a few minor changes that will clarify the statutory language, as well as provide regulatory flexibility with respect to the standardization of concession contracts.

Conclusion

The Administration supports the goals of H.R. 1204 and looks forward to working with the Committee to address our concerns. As the NWRS celebrates its Centennial anniversary this year, the Fish and Wildlife Service is working hard to ensure that visitors find National Wildlife Refuges welcoming, safe, and accessible, with a variety of opportunities to enjoy and appreciate America's fish, wildlife, and plants. We continue to host thousands of activities for the public nationwide throughout the year and will carry on activities beyond our Centennial year. We want people in communities to become aware of their local National Wildlife Refuges, to understand that each refuge is part of the NWRS, and to realize how refuges can contribute to tourism and enhance local economies.

Providing quality wildlife-dependent recreational opportunities is part of the Fish and Wildlife Service's vision for the NWRS, and concession operations can provide the visiting public with a means to access and interpret our refuges. We look forward to working with the Committee to help ensure that the Fish and Wildlife Service's concessions system will be more efficient and economical and improve the quality of the visitor experience at existing operations without compromising overall management and accountability of the refuge concessions program.

We believe that these changes will help accomplish the Fish and Wildlife Service's desire to build a broader base of public support for wildlife conservation by reaching out and involving a larger cross section of the American public in public use programs and community partnership efforts.

H.R. 2408- National Wildlife Refuge Volunteer Act of 2003

H.R. 2408 reauthorizes the National Wildlife Refuge System Volunteer and Community Partnership Enhancement Act of 1998 (Act). As note above, we strongly support this reauthorization.

The Fish and Wildlife Service's volunteers play a vital role in helping to fulfill our mission of conserving, protecting and enhancing America's fish and wildlife and the habitats on which they depend. Volunteers provide essential services that we do not have the resources or staff to provide. Further, many Americans are interested in volunteering their time and energy to improve the environment, and the NWRS is where volunteers can satisfy their desires to make a difference while assisting the Fish and Wildlife Service accomplish its mission.

With passage of the Act in 1998, Congress provided the Fish and Wildlife Service with new tools to involve the American people as stewards of our Nation's wildlife resources. These tools have helped us broaden and increase the size of our volunteer programs. Our volunteer program began in 1982 with 4,251 volunteers donating 128,440 hours of service. Those numbers have increased substantially since then, with National Wildlife Refuges alone hosting more than 34,000 volunteers in 2002, contributing over 1.2 million hours of service. The tireless and creative efforts of our volunteers complete more than 20 percent of the work conducted on refuges, and volunteer contributions over the last two years are valued at \$28.8 million. Clearly, money spent on the volunteer program yields values far greater than the initial investment.

Our volunteers perform a variety of tasks, such as providing information and interpretation to the visiting public, leading refuge tours, conducting fish and wildlife surveys and habitat improvement projects, construction and repair projects, and assisting with laboratory and scientific research. They are individuals who want to give back to their communities, parents who want to be good stewards of the land and set examples for their children, retired people willing to share their wealth of knowledge, concerned citizens of all ages who want to learn more about conservation, and passionate people who enjoy the outdoors and want to spread the word about America's greatest natural treasures. Organizations providing volunteers include, among others, boy scouts, girl scouts, members of the American Association of Retired Persons, local Friends-of-the-Refuge groups, local Audubon or Ducks Unlimited chapters, and school groups, and we use volunteers from organizations such as the Student Conservation Association.

The volunteer program offers a direct link between the Fish and Wildlife Service and citizens. There has been a strong public interest in participating in our programs and visiting Fish and Wildlife Service facilities, and we expect that interest to continue. Several examples of our volunteer efforts include:

- o At Bitter Lake NWR, New Mexico, volunteers have provided support and contributed thousands of hours of their time and talent to study and determine the nesting and fledgling success of endangered interior least terns, and also completed several 1,000+ hour studies to determine habitat use and populations of wintering sandhill cranes. Leading the study was a Ph.D. biologist who teaches at a local school. This volunteer has contributed over 10,000 hours of service to date and has received several awards for his volunteer efforts with the Fish and Wildlife Service, including most recently the President's Volunteer Service Award under the "Take Pride in America" Program. He also trains recent college graduates to perform biological studies, which are critical to the biological integrity of the NWRS's wildlife and conservation programs.

- o At Edwin B. Forsythe NWR, New Jersey, volunteers assist by performing weekly waterbird surveys. They also monitor the threatened piping plover's breeding activity and construct and maintain nest predator exclosures around piping plover nests. Nest predator exclosures have substantially reduced egg losses to predators. This monitoring provides valuable information on how to better protect these species. In addition, the interpretation work by volunteers to the public has substantially reduced people-caused disturbance to the nesting birds.

- o At the Hakalau Forest NWR, Hawaii, forty-two volunteer groups traveled to the refuge on weekends and weekdays to assist with the reforestation and alien plant control. The reforestation work included seed collection, tree nursery maintenance, and tree planting; over 23,000 native and endangered trees were outplanted. The alien plant control efforts included removal of several acres of banana poka.

- o Volunteers at Stone Lakes NWR, California, contributed over 3,500 hours this past year. Many projects, such as the mistnetting and banding of songbirds, planting of native trees and shrubs, could not have been accomplished without the help of dedicated volunteers. Thousands of school children and the general public learned about the refuge and the unique habitats of the Central Valley from tours given by volunteers during the year.

- o At Turnbull NWR, Washington, volunteers participating in the refuge's biological program contributed over 6,300 hours. Projects included assisting with spring and fall waterfowl surveys, marshbird survey, songbird

point counts, MAPS, breeding bird surveys, duck banding, fire monitoring in ponderosa pine and aspen forests, pit fall trapping, raptor and shorebird surveys, rare plant surveys, elk surveys, coyote scat transects, aquatic amphibian surveys, a frog malformation study, construction and installation of elk exclosures, and monitoring bluebird and wood duck nest boxes. In addition, volunteers participating in the refuge's environmental education program contributed over 5,200 hours. Over 110 school and civic groups enjoyed field trips, classroom activities, aquatic ecology studies, night hikes, tours, and outreach programs facilitated by refuge volunteers.

o At Ash Meadows NWR, Nevada, two volunteers removed 240 inactive utility poles over a two month period. They donated over 500 hours and saved the Fish and Wildlife Service \$100,000.

o At Okefenokee NWR, Georgia, 12 trailer concrete pads with water, sewage, and electric hookups were built to provide volunteers with temporary housing opportunities. Volunteers are required to stay a minimum of 2 months and work 32 hours a week in exchange for full service hookups. This exchange of housing lots for skilled refuge operations work has been so popular that the 12 trailer pads are used at full capacity and having to put prospective volunteers on a waiting list is very common.

o Volunteers at St. Marks NWR, Florida, donate hundreds of hours towards the Monarch Butterfly migration Research Program. Volunteers educated visitors on the natural history of the monarch butterfly, and, thanks to the coordinating efforts of one of the lead volunteers, 3,203 monarchs were counted and 1,553 were tagged.

o Chincoteague NWR, Virginia, hosts several Elder hostels. The Elder hostel program provides retired and semi-retired seniors the opportunity to use their valuable skills and talents toward hands-on service projects. Last year, participants removed a portion of the Marsh Trail dike and built an elevated boardwalk in its place. They planted trees and built several information kiosks on the refuge.

Volunteer Coordinators

One of the most significant provisions of the Act is its authorization to establish up to 20 volunteer enhancement pilot projects nationwide, each of which may hire a full time volunteer coordinator. Appropriations have allowed the Fish and Wildlife Service to create 16 of the 20 authorized positions. These full time volunteer coordinators are charged with recruiting, training, managing, and supervising volunteers and seeking partnerships between refuges and communities. The volunteer coordinators have significantly elevated the visibility and productivity of the 16 volunteer programs as well as helped in local fundraising efforts.

The pilot volunteer coordinators have been instrumental in setting up key elements of effective volunteer programs on their refuges. They have created an organizational structure, tools, training and resources needed to manage the volunteer programs effectively. Programs established under this Act have substantially enriched refuge operations while providing satisfying work experiences for volunteers.

In addition to offering needed skills to refuge programs, volunteer coordinators and the volunteers they manage provide important links between the refuge and neighboring communities, serving as a bridge between government and local citizens. These, in turn, help foster new partnerships. Time and again volunteers have proven the theory that good conservation through communication, consultation, and cooperation works best.

Community Partnerships

The Act helps to facilitate partnerships between the Fish and Wildlife Service and non-federal entities to promote public awareness of the resources of the NWRS and public participation in the conservation of those resources. The Act also encourages donations and other contributions by persons and organizations to individual refuges and the NWRS.

In many cases, community partnerships take the form of "Friends" groups for a given refuge. "Friends" are groups of local citizens who join together to form 501(c)(3) nonprofit organizations in long term commitments to support the mission of their local NWR. They provide many important services to the refuge system including community outreach, educational programs, habitat restoration support, volunteer staffing and fundraising. Many of the groups are well established and provide far reaching assistance to their refuges. Others are just getting started. The national network of Friends groups numbered 70 in FY 1996 and grew

to more than 225 by the end of FY 2002, a significant rate of growth indicating their popularity in local communities. As the number of groups have increased, so too has the sophistication under which these groups design and implement programs - all of which benefit the NWRS greatly.

These partnerships with outside organizations and individuals are increasingly critical elements of our ability to carry out conservation, recreation, and education programs. Partnerships considerably add to our abilities to interact with the private sector in accomplishing the NWRS mission.

The Fish and Wildlife Service thanks you, Mr. Chairman, and members of your Committee for undertaking the reauthorization of this Act. I cannot think of a better time, during the NWR System's 100 year anniversary, to reauthorize this important Act. Its reauthorization should provide a major boost for refuge volunteer programs and community partnership efforts and the many benefits they bring to our National Wildlife Refuges. It will allow the Fish and Wildlife Service to continue building upon its successful efforts to engage and involve private citizens in accomplishing our mission.

Again, thank you, Mr. Chairman, for giving me the opportunity to discuss this legislation with the Committee. This concludes my statement and would be happy to answer any questions you might have.